

**G.D. PC** **GINA DECRESKENZO, P.C.**  
**EDUCATION ATTORNEYS**

Gina M. DeCrescenzo

OF COUNSEL

Benjamin Brown

Catherine Merino Reisman\*\*

\*\*ALSO ADMITTED IN NJ & PA

PARALEGAL

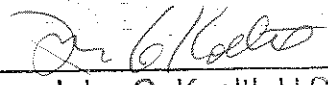
Charlie Lolis

April 14, 2023

*By ECF*

Hon. John G. Koeltl  
U.S. District Judge  
U.S. Courthouse  
500 Pearl St  
New York, NY 10007

APPLICATION GRANTED  
SO ORDERED

  
John G. Koeltl, U.S.D.J.

4/15/23

Re: M.B. et al. v. New York City Dep't of Educ. et al., 21-cv-7890 (JGK)  
(S.D.N.Y.)

Re: **Request to Extend Time to Settle Action**

Dear Judge Koeltl:

My office represents the Plaintiffs in this civil action concerning claims brought under the Individuals with Disabilities Education Act. I write respectfully to request extension of the time provided to effectuate settlement of this matter. Based on our progress toward settlement, the Court's most recent order in this case, dated March 16, 2023 (ECF No. 48) discontinued the action and specified that Plaintiffs may apply to restore the action to the calendar within 30 days.

As of March 16, 2023, counsel for the Defendants, David Thayer, Esq., and I had agreed upon tentative language for a stipulation of settlement,<sup>1</sup> and both Mr. Thayer and I planned to seek needed approvals. Mr. Thayer and I conferred by telephone today and we require more time both because Mr. Thayer still needs one approval from his office (he estimates requiring two

<sup>1</sup> I would like to be upfront with the Court that the settlement terms we envision involve potential further Court involvement, inasmuch as (1) the settlement is envisioned as a proposed so-ordered stipulation that would not take effect unless so-ordered by the Court; and (2) the settlement would allow Plaintiffs to move for an award of attorneys' fees pursuant to Fed. R. Civ. P. 54 and the Individuals with Disabilities Education Act's fee-shifting provision (20 U.S.C. § 1415(i)(3)(B)) within 90 days of the stipulation of settlement's effective date. The parties would attempt to amicably negotiate the attorneys' fees claim and a motion would be filed only if a negotiated resolution were unsuccessful. Our intent is to settle the issues that directly impact the children plaintiffs' education while the deferring attorneys' fees claim, so as not to hold up implementation of items that affect the childrens' education. We envision that the settlement agreement would be publicly filed.

April 14, 2023  
Page 2 of 2

weeks) and because my office has raised a narrow concern regarding the release-of-claims language in the draft stipulation. I expect we can resolve that concern through discussion with Mr. Thayer within the same two-week time period.

I respectfully request that the time in which Plaintiffs may apply to restore the action to the calendar be extended by an additional 30 days, to May 15, 2023, to allow further opportunity to effectuate the intended settlement, and in the alternative that the action be restored to the calendar. Mr. Thayer has advised me that the Defendants consent to the proposed extension of time to May 15, 2023.

I thank the Court for its time and consideration.

Very truly yours,



Benjamin Brown, Bar No. BB 1614  
Gina DeCrescenzo, P.C.  
***Counsel for Plaintiffs***  
180A South Broadway, Ste 100  
White Plains, NY 10605  
Tel: (914) 615-9177  
Fax: (914) 615-9176  
Email: bb@decrescenzolaw.com